

Regular Session, 2009

SENATE BILL NO. 176

BY SENATOR MICHOT

SPECIAL DISTRICTS. Provides relative to the Lafayette Metropolitan Expressway Commission. (8/15/09)

AN ACT

To amend and reenact R.S. 33:9038.31(3), R.S. 48:2091, 2092(B), 2093(1), (4), (15), and (16), 2094(A), the introductory paragraph of (C), (C)(1), (2), (3), (5) and (7), and (H), 2096(A), the introductory paragraph of 2097, 2097(17) and (18) and to enact R.S. 48:2093(17), 2094(C)(8) and (9), 2097(24), 2103, and 2104, relative to the Lafayette Metropolitan Expressway Commission, to change the name of the commission; to provide relative to the composition of the board of commissioners; to provide for definitions; to provide relative to the boundaries and jurisdiction of the commission; to authorize and provide relative to the selection of study-analyze-design-builders; to provide for the authority of the commission; to grant to the district certain tax increment finance and tax authority; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 33:9038.31(3) is hereby amended and reenacted to read as follows:

§9038.31. Definitions

As used in this Part, the following terms shall have the following meanings,

1 unless the context requires otherwise:

2 \* \* \*

3 (3) "Local governmental subdivision" means any municipality or parish or  
 4 any municipality, parish, local industrial board, **corridor commission authorized**  
 5 **pursuant to R.S. 48:2097**, or local public trust authorized pursuant to R.S.  
 6 33:9038.33(N) or 9038.34(N) having jurisdiction over the geographical area bounded  
 7 by the Mississippi River, the Orleans/Jefferson parish line and the  
 8 Orleans/Plaquemines parish line; but the provisions of this Part shall not apply to any  
 9 of the financing of construction, renovations, or improvements of any convention  
 10 center, hotel complex, and ancillary facilities within any municipality having a  
 11 population in excess of one hundred ninety thousand persons but not more than two  
 12 hundred five thousand persons according to the latest federal decennial census.  
 13 However, the provisions of this Part shall apply to any parish having a population of  
 14 not more than one hundred thirty thousand persons and not less than one hundred  
 15 twenty thousand persons, according to the most recent federal decennial census, only  
 16 as provided in R.S. 33:3098.41.

17 \* \* \*

18 Section 2. R.S. 48:2091, 2092(B), 2093(1), (4), (15), and (16), 2094(A), the  
 19 introductory paragraph of (C), (C)(1), (2), (3), (5) and (7), and (H), 2096(A), the  
 20 introductory paragraph of 2097, 2097(17) and (18) are hereby amended and reenacted and  
 21 R.S. 2093(17), 2094(C)(8) and (9), 2097(24), 2103, and 2104 are hereby enacted to read as  
 22 follows:

23 CHAPTER 31. ~~LAFAYETTE METROPOLITAN~~

24 ~~EXPRESSWAY~~ **ENERGY CORRIDOR** COMMISSION

25 §2091. Short title

26 This Chapter shall be known and may be referred to as the "~~Lafayette~~  
 27 ~~Metropolitan Expressway~~ **Energy Corridor** Commission Act".

28 §2092. Purpose; legislative findings

29 \* \* \*

1 B. Public revenue, including federal funds, has not kept pace with the area's  
 2 growing transportation system needs. The legislature hereby finds and declares that  
 3 it is a matter of public necessity to create the ~~Lafayette Metropolitan Expressway~~  
 4 **Energy Corridor** Commission **as a political subdivision of the state**, to pursue  
 5 alternative and innovative funding sources, including but not limited to **public-**  
 6 **private partnerships and** tolls; to supplement public revenue sources; and to  
 7 improve the Lafayette area's transportation **system in the corridor consisting of I-**  
 8 **49 south from Lafayette to I-310 in Boutte and LA 1.**

9 §2093. Definitions

10 Unless the text clearly indicates otherwise, the following words or phrases  
 11 shall have the following meanings:

12 (1) "Act" means the Lafayette ~~Metropolitan Expressway~~ **Energy Corridor**  
 13 Commission Act.

14 \* \* \*

15 (4) "Commission" means the Lafayette ~~Metropolitan Expressway~~ **Energy**  
 16 **Corridor** Commission created by this Chapter.

17 \* \* \*

18 (15) **"Study-analyze-design-builder" means the entity contractually**  
 19 **responsible for performing the demand study, economic feasibility analysis**  
 20 **framework, and delivering the project design and construction.**

21 ~~(15)~~ **(16)** "Toll" means any fee or charge for the use of a tollway.

22 ~~(16)~~ **(17)** "Tollway" means any limited access highway, bridge, or other  
 23 transportation facility constructed or operated by the commission.

24 §2094. ~~Lafayette Metropolitan Expressway~~ **Energy Corridor** Commission;  
 25 creation; board of directors; meetings; quorum

26 A. The Lafayette ~~Metropolitan Expressway~~ **Energy Corridor** Commission,  
 27 hereafter referred to as the "commission", is hereby created possessing full corporate  
 28 powers to promote, plan, finance, develop, construct, control, regulate, operate, and  
 29 maintain any limited access tollway or transitway to be constructed within its

jurisdiction.

\* \* \*

C. The board shall be composed of ~~eleven~~ **fifteen** directors who shall be the governing body of the commission with full power to promulgate rules and regulations for the maintenance and operation of said authority as follows:

(1) ~~Two members~~ **One member** appointed by the Lafayette Economic Development Authority.

(2) ~~Two members~~ **One member** appointed by the Greater Lafayette Chamber of Commerce.

(3) ~~Two members~~ **One member** appointed by the University of Louisiana-Lafayette.

\* \* \*

(5) ~~Two members~~ **One member** appointed by the secretary of the Louisiana Department of Transportation and Development, ~~one of whom shall be the District-03 engineer.~~

\* \* \*

(7) One member appointed by the ~~governing authority of the Lafayette consolidated government~~ **respective municipal planning organization.**

**(8) One member appointed by the LA-1 Coalition.**

**(9) One member appointed by the chief executive officer of each of the following parishes:**

**(a) Iberia.**

**(b) Lafourche.**

**(c) St. Charles.**

**(d) St. Martin.**

**(e) St. Mary.**

**(f) Terrebonne.**

**(g) Vermilion.**

\* \* \*

H. The boundary and jurisdiction of the commission shall be coextensive with the boundaries of ~~Lafayette Parish, Louisiana~~ **the parishes of Iberia, Lafayette, Lafourche, St. Charles, St. Martin, St. Mary, Terrebonne, and Vermilion.**

\* \* \*

§2096. Feasibility; advice

A. The commission may construct projects under the terms and conditions set forth in this Chapter. The commission shall conduct an economic feasibility study prior to initiation of any project to substantiate project need and feasibility. **Any project undertaken by the commission shall conform to applicable requirements adopted by the local metropolitan planning organization, the department, the Louisiana Transportation Authority, and the Federal Highway Administration.**

\* \* \*

§2097. Jurisdiction; powers of commission

The commission, **acting by and through its board of commissioners, shall have and exercise all powers of a political subdivision and special taxing district** **and** may exercise powers necessary, appurtenant, convenient, or incidental to the carrying out of its purposes, including but not limited to the following rights and powers:

\* \* \*

(17) **In addition to the authority provided for in R.S. 48:2101, to ~~To~~ borrow money and issue bonds for any commission purpose incur debt and to issue bonds, notes, certificates and other evidences of indebtedness. For this purpose the commission shall be deemed and considered to be an issuer for purposes of R.S. 33:9037 and shall, to the extent not in conflict with this Section, be subject to the provisions of R.S. 33:9037. The tax to repay the bonded indebtedness shall be levied through a resolution adopted by the board of commissioners, only after a special election is held for the purpose of approving the tax by a**

majority of the electors within the jurisdiction of the commission voting thereon. The district shall have such tax increment finance authority, taxing authority, and other authority that is provided to local governmental subdivisions in Part II of Chapter 27 of Title 33 of the Louisiana Revised Statutes of 1950, including but not limited to: ad valorem tax increment financing and bonding in R.S. 33:9038.33; sales tax increment financing and bonding in R.S. 33:9038.34; cooperative endeavor authority in R.S. 33:9038.35; bond authority in R.S. 33:9038.38; and ad valorem and sales tax authority in R.S. 33:9038.39.

(18) For the public purposes of the district, to ~~To enter into~~ contracts, and agreements, or cooperative endeavors with the state and its political subdivisions or political corporations and with any public or private association, corporation, business entity, or individual and execute all instruments necessary or convenient thereto for accomplishing the purposes of the commission.

\* \* \*

(24) To enter into agreements for combining the study-analyze-design-build phases of a transportation project pursuant to the provisions of R.S. 48:2103.

§2103. Study-analyze-design-build contracts

A. Notwithstanding any law or requirement to the contrary, if the commission determines it is in the best interest of the taxpayers, it may formulate, develop, and implement a program to combine the study, analysis, design, and construction phases of a transportation project into a single contract.

B. Each study-analyze-design-builder shall be duly licensed and registered to provide the services required to complete the project and do business in this state. All registrations and licenses shall be obtained prior to or concurrent with the award of the project to the selected study-analyze-design-builder by the commission.

1           **C. A notice of intent to request letters of interest for a study-analyze-**  
2           **design-build project shall be distributed by the commission through**  
3           **advertisement in the official journal chosen by the commission and by any other**  
4           **means to ensure adequate response, including newspapers, trade journals, and**  
5           **other forms of media which may be appropriate for specialty services. All**  
6           **notices of intent shall be advertised a minimum of ten business days prior to the**  
7           **deadline for receipt of responses and shall contain a brief description of the**  
8           **project and sufficient information for a study-analyze-design-builder to**  
9           **determine its interest and to enable it to submit a letter of interest. The**  
10           **commission may readvertise the notice of intent using additional media or**  
11           **publications in an attempt to solicit additional responses if the number of**  
12           **responses received by the commission is inadequate.**

13           **D. The commission may provide a "Request for Qualifications" (RFQ)**  
14           **to study-analyze-design-builders who submit a letter of interest. If the**  
15           **commission provides a request for qualifications, it shall identify all required**  
16           **information in the request for qualifications, which shall at a minimum include**  
17           **study, analyze, design and construction credentials and experience for the areas**  
18           **of expertise specific to the project, experience of key personnel as related to the**  
19           **project under consideration, past performance on other related projects, and**  
20           **any project specific criteria as may apply to project needs. Any response failing**  
21           **to meet all of the requirements contained in the request for qualifications shall**  
22           **not be considered by the commission. False or misrepresented information**  
23           **furnished in response to a request for qualifications shall be grounds for**  
24           **rejection by the commission.**

25           **E. After considering all factors identified in the request for proposals,**  
26           **the commission may award the contract to the responsible study-analyze-**  
27           **design-builder whose proposal provides the best value to the commission and**  
28           **the taxpayers located within the jurisdiction of the commission. The award**  
29           **decision shall be documented, including but not limited to the rationale for**

1 judgments, trade-offs, or benefits associated with the selected study-analyze-  
2 design-builder.

3 **§2104. Taxing authority**

4 **A. For purposes of implementing tax increment financing as provided**  
5 **for in Part II of Chapter 27 of Title 33 of the Louisiana Revised Statutes of 1950,**  
6 **the commission shall have all authorities provided for in R.S. 33:9038.34 to**  
7 **implement sales tax increment financing. However, any tax or portion of a tax**  
8 **which has been previously dedicated to another purpose according to a**  
9 **proposition approved by voters shall be used as such a tax increment only if**  
10 **approved by a majority of the voters located within the boundaries of the taxing**  
11 **authority which previously levied such tax in an election held for such purpose.**

12 **B. The commission shall designate the boundaries of a sales tax area and**  
13 **shall designate the local sales taxes, which are to be used in determining the**  
14 **sales tax increments and the initial annual baseline collection rate for the sales**  
15 **tax area, which shall be the amount of such designated sales taxes collected in**  
16 **the sales tax area in the fiscal year of the commission most recently completed**  
17 **prior to the establishment of the sales tax area. In addition, a monthly baseline**  
18 **collection rate shall be determined by dividing the initial annual baseline**  
19 **collection rate by twelve. The initial annual baseline collection rate and the**  
20 **monthly baseline collection rate shall be certified by the chief financial officer**  
21 **or equivalent of the commission. The certification shall also be published one**  
22 **time in the official journal chosen by the commission. If the amounts of the**  
23 **initial annual baseline collection rate and the monthly baseline collection rate**  
24 **are not contested within thirty days after such publication, then such amounts**  
25 **shall be conclusively presumed to be valid, and no court shall have any**  
26 **jurisdiction to alter or invalidate the designation of the amount of either the**  
27 **initial annual baseline collection rate or the monthly baseline collection rate.**

28 **C. This Section, being necessary for the welfare of the citizens residing**  
29 **and business and industry located within the jurisdiction, shall be liberally**



1 **construed to effect the purposes thereof.**

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Cathy R. Wells.

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### DIGEST

Present law authorizes entities defined as "local governmental subdivisions" to implement ad valorem tax and sales tax increment financing and to issue revenue bonds backed by a pledge of the tax increments to finance all or any part of an "economic development project," "Economic development project" is defined as, without limitation, any and all projects suitable to any industry determined by the "local governmental subdivision" including public works and infrastructure and projects to assist the following industries:

- (1) Industrial, manufacturing, and other related industries.
- (2) Housing and related industries.
- (3) Hotel, motel, conference facilities, and related industries.
- (4) Commercial, retail, and related industries.
- (5) Amusement, places of entertainment, theme parks, and any other tourism-related industry.
- (6) Transportation-related industries.
- (7) Hospital, medical, health, nursery care, nursing care, clinical, ambulance, laboratory, and related industries.
- (8) Any other industry determined by the "local governmental subdivision" whose assistance will result in economic development.

Present law authorizes such "local governmental subdivisions" to enter into a joint venture or cooperative endeavor for a public purpose with a federal, state, or local governmental agency or with a private or public firm, partnership, corporation, or other entity.

Present law authorizes such "local governmental subdivisions" to issue revenue bonds and other bonds and forms of indebtedness.

Present law authorizes such "local governmental subdivisions" to levy an ad valorem tax of up to 5 mills and a two percent of sales tax after the governing authority of the district gives notice and meets in open and public session to hear any objections and the favorable vote of a majority of the electors of the district voting in an election.

Present law provides relative to the Lafayette Metropolitan Expressway Commission.

Proposed law changes the name of the Lafayette Metropolitan Expressway Commission to the Energy Corridor Commission and recreates the commission as political subdivision and special taxing district. Proposed law provides for the boundaries of the commission to be comprised of the following parishes: Iberia, Lafayette, Lafourche, St. Charles, St. Martin, St. Mary, Terrebonne, and Vermilion.

Proposed law grants to the commission all the ad valorem, sales tax, and occupancy tax increment finance and bonding authority, and the ad valorem and sales tax levy authority granted to "local governmental subdivisions" as described above.

The district may also pledge any taxes collected under the authority of this Section to any economic development project in furtherance of the purposes of the district. Such financing may include, but shall not be limited to loans, mortgages, the issuance of bonds, or the issuance of certificates of indebtedness.

Present law provides for the commission to be administered and governed by a board of commissioners of 11 people.

Proposed law increases the number of commissioners to 15 people as follows:

- (1) One member appointed by the Lafayette Economic Development Authority
- (2) One member appointed by the Greater Lafayette Chamber of Commerce.
- (3) One member appointed by the University of LA - Lafayette.
- (4) One member appointed by city-parish president of the Lafayette Parish Consolidated Government.
- (5) One member appointed by the sec. of DOTD.
- (6) One member appointed by the chief executive officer of the incorporated areas of Lafayette Parish, other than the city of Lafayette.
- (7) One member appointed by the respective municipal planning organization.
- (8) One member appointed by the LA-1 Coalition.
- (9) One member appointed by the chief executive officer of each of the following parishes: Iberia, Lafourche, St. Charles, St. Martin, St. Mary, Terrebonne, and Vermilion.

Proposed law requires that any project undertaken by the commission conform to applicable requirements adopted by the local MPO, DOTD, LTA, and FHWA.

Proposed law authorizes the commission to formulate, develop, and implement a program to combine the study, analysis, design, and construction phases of a transportation project into a single contract.

Proposed law requires each study-analyze-design-builder to be duly licensed and registered to provide the services required to complete the project and do business in this state.

Proposed law further requires that all registrations and licenses be obtained prior to or concurrent with the award of the project to the selected study-analyze-design-builder by the commission.

Proposed law provides relative to the selection procedure and other requirements for selecting a study-analyze-design-builder.

The proposed law must be liberally construed to effect its purposes.

Effective August 15, 2009.

(Amends R.S. 33:9038.31(3), R.S. 48:2091, 2092(B), 2093(1), (4), (15), and (16), 2094(A), the intro. para. of (C), (C)(1), (2), (3), (5) and (7), and (H), 2096(A), the intro. para. of 2097, 2097(17) and (18); adds R.S. 48:2093(17), 2094(C)(8) and (9), 2097(24), 2103, and 2104)